

108TH CONGRESS
1ST SESSION

S. 1300

To prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2003

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit a health plan from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prescription Drug
5 Consumer Information Act of 2003”.

6 **SEC. 2. PHARMACY BENEFIT MANAGERS TRANSPARENCY**
7 **REQUIREMENTS.**

8 (a) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
9 ACT RELATING TO THE GROUP MARKET.—

1 (1) IN GENERAL.—Subpart 2 of part A of title
 2 XXVII of the Public Health Service Act (42 U.S.C.
 3 300gg–4 et seq.) is amended by adding at the end
 4 the following:

5 **“SEC. 2707. PHARMACY BENEFIT MANAGERS TRANS-**
 6 **PARENCY REQUIREMENTS.**

7 “Notwithstanding any other provision of law, a group
 8 health plan, and a health insurance issuer providing health
 9 insurance coverage in connection with a group health plan,
 10 shall not enter into a contract with any pharmacy benefit
 11 manager (in this section referred to as a ‘PBM’) to man-
 12 age the prescription drug coverage provided under such
 13 plan or insurance coverage, or to control the costs of such
 14 prescription drug coverage, unless the PBM satisfies the
 15 following requirements:

16 “(1) The PBM is not owned by a pharma-
 17 ceutical manufacturing company.

18 “(2) The PBM agrees to pass along any cost
 19 savings negotiated with a pharmacy to the group
 20 health plan or the health insurance issuer.

21 “(3) The PBM agrees to make public on an an-
 22 nual basis the percent of manufacturer’s rebates re-
 23 ceived by the PBM that is passed back to the group
 24 health plan or the health insurance issuer on a drug-
 25 by-drug basis.

1 “(4) The PBM agrees to provide, at least annu-
2 ally, the group health plan or the health insurance
3 issuer with all financial and utilization information
4 requested by the plan or issuer relating to the provi-
5 sion of benefits to eligible enrollees through the
6 PBM and all financial and utilization information
7 relating to services provided to the plan or issuer. A
8 PBM providing information under this paragraph
9 may designate that information as confidential. In-
10 formation designated as confidential by a PBM and
11 provided to a plan or issuer under this paragraph
12 may not be disclosed to any person without the con-
13 sent of the PBM.

14 “(5) The PBM agrees to provide, at least annu-
15 ally, the group health plan or the health insurance
16 issuer with all financial terms and arrangements for
17 remuneration of any kind that apply between the
18 PBM and any prescription drug manufacturer or la-
19 beler, including formulary management and drug-
20 switch programs, educational support, claims proc-
21 essing and pharmacy network fees that are charged
22 from retail pharmacies and data sales fees.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall apply to group health plans
25 and health insurance issuers in connection with

1 group health plans for plan years beginning on or
 2 after the date of enactment of this Act.

3 (b) AMENDMENT TO THE PUBLIC HEALTH SERVICE
 4 ACT RELATING TO THE INDIVIDUAL MARKET.—

5 (1) IN GENERAL.—The first subpart 3 of part
 6 B of title XXVII of the Public Health Service Act
 7 (42 U.S.C. 300gg-51 et seq.) is amended—

8 (A) by redesignating such subpart as sub-
 9 part 2; and

10 (B) by adding at the end the following:

11 **“SEC. 2753. PHARMACY BENEFIT MANAGERS TRANS-**
 12 **PARENCY REQUIREMENTS.**

13 “The provisions of section 2707 shall apply to health
 14 insurance coverage offered by a health insurance issuer
 15 in the individual market in the same manner as they apply
 16 to a group health plan and a health insurance issuer pro-
 17 viding health insurance coverage under that section.”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by paragraph (1)(B) shall apply with respect to
 20 health insurance coverage offered, sold, issued, re-
 21 newed, in effect, or operated in the individual mar-
 22 ket on or after the date of enactment of this Act.

23 (c) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 24 OF 1974.—

1 (1) IN GENERAL.—Subpart B of part 7 of sub-
 2 title B of title I of the Employee Retirement Income
 3 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
 4 amended by adding at the end the following:

5 **“SEC. 714. PHARMACY BENEFIT MANAGERS TRANS-**
 6 **PARENCY REQUIREMENTS.**

7 “The provisions of section 2707 of the Public Health
 8 Service Act shall apply to a group health plan, and a
 9 health insurance issuer providing health insurance cov-
 10 erage in connection with a group health plan, in the same
 11 manner as such provisions apply to a group health plan
 12 and a health insurance issuer providing health insurance
 13 coverage under that section.”.

14 (2) CLERICAL AMENDMENT.—The table of con-
 15 tents in section 1 of the Employee Retirement In-
 16 come Security Act of 1974 is amended by inserting
 17 after the item relating to section 713 the following:

“Sec. 714. Pharmacy benefit managers transparency requirements.”.

18 (3) EFFECTIVE DATE.—The amendments made
 19 by this subsection shall apply with respect to plan
 20 years beginning on or after the date of enactment of
 21 this Act.

22 **SEC. 3. DISCLOSURE OF RETAIL PRICES OF PHARMA-**
 23 **CEUTICALS.**

24 The Secretary of Health and Human Services shall
 25 promulgate regulations requiring a pharmacy to disclose

- 1 the retail cost of a prescription drug upon request by a
- 2 consumer.

